

**ASSEMBLY BILL**

**No. 729**

**Introduced by Assembly Member Lieber**

February 19, 2003

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An act to add Sections 40235 and 40236 to the Health and Safety Code, relating to air quality.

LEGISLATIVE COUNSEL'S DIGEST

AB 729, as introduced, Lieber. Bay Area Air Quality Management District.

(1) Existing law establishes the Bay Area Air Quality Management District, within the boundaries of the Counties of Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, and Santa Clara, and portions of the Counties of Solano and Sonoma.

This bill would authorize the bay district to adopt rules and regulations to reduce and mitigate emissions of air contaminants from indirect sources of air pollution, but would prohibit those rules or regulations from infringing upon any local government's authority to plan or control land use. The bill would require the bay district, not later than July 31, 2004, to adopt revised regulations to reduce fugitive emissions and flared gases from oil refineries in the state. The bill would require those revised regulations to require utilization of the best available retrofit control technology, and to endeavor to protect the health of the sensitive populations in nearby communities. The additional duties for the bay district, by the bill would impose a state-mandated local program.

(2) Existing law makes any violation of a rule, regulation, or order of a district a misdemeanor.

By expanding the scope of a crime, this bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that with regard to certain mandates no reimbursement is required by this act for a specified reason.

With regard to any other mandates, this bill would provide that, if the Commission on State Mandates determines that the bill contains costs so mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 40235 is added to the Health and Safety
- 2 Code, to read:
- 3 40235. The bay district may adopt rules and regulations to
- 4 reduce and mitigate emissions of air contaminants from indirect
- 5 sources of air pollution. A rule or regulation adopted pursuant to
- 6 this section may not infringe upon any local government's
- 7 authority to plan or control land use.
- 8 SEC. 2. Section 40236 is added to the Health and Safety Code,
- 9 to read:
- 10 40236. The bay district, not later than July 31, 2004, shall
- 11 adopt revised regulations to reduce fugitive emissions and flared
- 12 gases from oil refineries in the state. These revised regulations
- 13 shall require utilization of the best available retrofit control
- 14 technology, and endeavor to protect the health of the sensitive
- 15 populations in nearby communities.
- 16 SEC. 3. No reimbursement is required by this act pursuant to
- 17 Section 6 of Article XIII B of the California Constitution for
- 18 certain costs that may be incurred by a local agency or school
- 19 district because in that regard this act creates a new crime or
- 20 infraction, eliminates a crime or infraction, or changes the penalty



1 for a crime or infraction, within the meaning of Section 17556 of  
2 the Government Code, or changes the definition of a crime within  
3 the meaning of Section 6 of Article XIII B of the California  
4 Constitution.

5 However, notwithstanding Section 17610 of the Government  
6 Code, if the Commission on State Mandates determines that this  
7 act contains other costs mandated by the state, reimbursement to  
8 local agencies and school districts for those costs shall be made  
9 pursuant to Part 7 (commencing with Section 17500) of Division  
10 4 of Title 2 of the Government Code. If the statewide cost of the  
11 claim for reimbursement does not exceed one million dollars  
12 (\$1,000,000), reimbursement shall be made from the State  
13 Mandates Claims Fund.

